

FMS

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Rafael ARAUJO-Barrera,

Defendant

Magistrate Docket No. 07 MJ 2773

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1526  
Deported Alien Found in the  
United States

'07 MJ 2773

The undersigned complainant, being duly sworn, states:

On or about **November 28, 2007** within the Southern District of California, defendant, **Rafael ARAUJO-Barrera**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT

James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 29<sup>th</sup> DAY OF November 2007.

Anthony J. Battaglia

UNITED STATES MAGISTRATE JUDGE

FAS

**CONTINUATION OF COMPLAINT:**  
**Rafael ARAUJO-Barrera**

**PROBABLE CAUSE STATEMENT**

On November 28, 2007, at approximately 5:45 A.M., Border Patrol dispatch advised agents of a seismic sensor activation near the area commonly known as Campo's Ditch. This area is approximately three miles west of the San Ysidro, California, Port of Entry and 150 yards north of the United States/Mexico International Border. Border Patrol Agent L. Dithrich responded to the area. After a brief search, he found two individuals hiding in brush. Agent Dithrich identified himself as a Border Patrol Agent and conducted an immigration inspection. Both individuals, including one later identified as the defendant **Rafael ARAUJO-Barrera**, admitted to being a citizen and national of Mexico illegally in the United States. They further admitted that they did not possess any documents that would allow them to legally enter or remain in the United States. Agent Dithrich arrested both individuals and they were transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **July 5, 2005** through the Port of Entry at **Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Agent Dithrich advised ARAUJO of his Miranda Rights. ARAUJO said that he understood these rights and was willing to answer questions without the presence of an attorney. ARAUJO stated that he illegally jumped the United States/Mexico International Boundary fence. When again asked if he had any immigration documents in his possession that would allow him to legally enter into or be in the United States, he said, "No."